

REMARKS

Claims 1- 45 are pending in the subject application. After entry of the above amendments to the claims, claims 1-7, 9-11, 15, 16, 20-23, 31, 32, 34, 36, and 40 have been amended. The Examiner is respectfully requested to reconsider the rejection of the claims in view of the above amendments and remarks as set forth herein below.

1. Claims 1-6, 10, 11, 15, 16, 20-24, 26, 27, 30-36 and 39-42 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Smith (US 6,298,889). This rejection is respectfully traversed.

Smith discloses a single color vehicle tire. At column 1, lines 11 and 12, Smith states that "the non-black color will remain inherent throughout all portions of the tire." Further, Smith discloses "a tire composition having a non-black color that is solidly and evenly dispensed throughout the density of the tire composition so that the tire will remain with a non-black appearance even as the tire is worn or damaged (See column 2, lines 54 to 57). Thus, Smith does not disclose a tire having an outer surface displaying a pattern, let alone a non-repeating colored pattern on at least twenty-five (25%) of the outer surface according to the claimed combination. Thus, Smith does not anticipate the claimed invention.

Regarding claims 10 and 11, Smith does not disclose that by adding photo chromic or photo luminescent types of dyes, and/or pigments a visual pattern will be created and be

displayed on the outer surface of the tire. These dyes and pigments will also be "solidly and evenly dispensed" throughout the density of the tire like the color dyes and/or pigments in Smith, and will not display any pattern.

Regarding claim 15, claim 15 has been amended to recite "displaying advertisement." Thus, Smith does not disclose this claimed combination.

Regarding claim 16, the work "artwork" according to the American Heritage Dictionary of the English language (Houghton Mifflin Company, 1980) is defined as "work in the graphic or plastic art; especially the hand-making of small decorative or artistic objects", or "illustrative and decorative matter as distinguished from text", or "both illustrative matter and type proofs, arranged on a mechanical to be sent to the printer." Further examples of "artwork" are discussed at page 15, lines 10 to page 17 line 9 of the original specification. A single non-black color tire according to Smith is not artwork. Further, the use of photo chromatic pigments that change color in response to a change in temperature is also not artwork. Specifically, in such case the tire would be a single color at any particular moment and temperature, and will always be visualized as a single color by a visual observer.

Regarding claims 30-34, Smith does not disclose the combination of a tire and wheel, let alone the particulars of the combination of the claimed tire and claimed wheel. Specifically, regarding claim 31, Smith discloses the advantages of Smith's non-black tire at column 1, lines 26 to column 2, line 31, regarding wear indication, damage indication and for safety concerns and issues. Smith does not disclose color coordinating the tires with the wheels (claims 31 and

33), or the vehicle (claims 32 and 34), let alone the claimed combination of a tire having an outer surface with a non-repeating colored pattern on at least twenty-five percent (25%) of the outer surface. The Examiner states "that the claims do not further define the structure of the claimed tire article or wheel assembly – the claims are directed to the method of selecting and matching the color of the tire rubber to an additional tire component." The claims according to the present invention are directed to a device "i.e. tire device" that clearly has characteristics and features not taught or suggested by the prior art cited by the Examiner. Applicant may be entitled to method claims for their inventions, however, they are also entitled to the device claims presented.

2. Claims 1-5, 7-11, 13-16, 20-24, 27-34, 43 and 45 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Peterson (US 6,499,422). This rejection is respectfully traversed.

Peterson discloses speed indication markings for tires. Peterson requires that the markings or pattern be a periodic pattern (i.e. specifically not a non-repeating pattern), at column 1, lines 45 and 46. A variety of embodiments of the particular patterns are shown in Figures 3-6.

The claimed combination is directed to a tire having an outer surface displaying a non-repeating colored pattern on at least twenty-five percent (25%) of the outer surface. The specification of the subject application discloses this "non-repeating pattern" at page 15, line 12 of the original specification. Further, the embodiments shown in Figures 12 and 13 are examples

of non-repeating patterns, and some of examples 1-8 describe other examples of non-repeating patterns. Thus, Applicant is entitled to now claim such features or limitations.

Regarding Figure 6, Peterson discloses that the "periodic color pattern 70 is different from the previous embodiments in that the periodic color 70 pattern includes periodic ornamental color regions 72. The color regions 72 may be randomly designed but yet still provide necessary degree of periodicity to enable the rider to determine a predetermined speed. (See column 3, lines 18 to 23). Again, the periodic pattern is absolutely necessary in all embodiments of Peterson in order to provide a blending of colors to determine the speed by a visual observer of the tire. Peterson does not disclose the claimed combination including a tire having an outer surface displaying a colored non-repeating pattern on at least twenty-five percent (25%) of the outer surface. Thus, Peterson does not anticipate the claimed invention.

Regarding claims 31-34, the claimed features or limitations are proper and legitimate claim features or limitations that further distinguish the claimed combinations over the prior art cited by the Examiner. The prior art does not teach or suggest in any manner color coordinating a color tire with another portion of the vehicle, for example, the wheel, body color, trim color and/or interior color of a vehicle, let alone in combination with the particular claimed tire having an outer surface displaying a non-repeating colored pattern on at least twenty-five percent (25%) of the outer surface. The concept of substantially coloring a tire and color coordinating a tire with other parts, components and/or portions of a vehicle is novel and not taught or suggested by the prior art. The prior art references cited by the Examiner use coloration or change of coloration of tires for detecting wear, detecting damage and/or detecting speed. These prior art

references clearly ignore the very significant and novel concept of significant colorization of tires and color coordination with parts, components or other portions of a vehicle.

3. Claims 1-4, 6-9, 21, 22, 25, 28-35, 39 and 43 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Creasey (US 3,814,160). This rejection is respectfully traversed.

Creasy discloses a tread wear indicator having a surface portion of a first color and an interior sub-surface tread wear indicator portion of a contrasting color. Creasy does not disclose the claimed combination including a tire having an outer surface displaying a non-repeating colored pattern on at least twenty-five percent (25%) of the outer surface.

It is important to note that the outer surface of the tire construction disclosed by Creasey is a single color unlike the claimed combination including a tire having an outer surface displaying a non-repeated colored pattern on at least twenty-five percent (25%) of the outer surface. It is noted that the outer surface of the tire in Creasey must wear down to the colored under layer before there exists a visual distinction in the colors between the two layers. Thus, Creasey does not disclose an outer layer by itself capable of displaying a colored pattern, let alone a non-repeating colored pattern on at least twenty-five percent (25%) of the outer surface. Again, Creasey requires two (2) separate layers displaying different colors for the purposes of indicating wear. Even further, regarding claim 1, if and when the under layer is exposed due to the outer layer wearing, only a small surface area of the outer surface is worn away to then indicate to an observer that the tire is worn and needs replacement well below the claimed

twenty-five percent (25%) of the outer surface according to the claimed combination. Thus, Creasey does not anticipate the claimed invention.

4. Claims 12-14, 17-19, 37 and 38 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith as applied in paragraph 2 above and further in view of Firomemo (Japan 2000 296 703). This rejection is respectfully traversed.

Firomeno is cited by the Examiner as describing a tire construction in which raised lettering is arranged on the tire sidewall, it being further noted that the rubber composition of said lettering is colored. Like Smith, Firomeno does not disclose a tire having an outer surface displaying a colored non-repeating pattern on at least twenty-five percent (25%) of the outer surface according to the claimed combination. Thus, Smith and Firomeno alone or in combination do not teach or suggest the claimed invention.

5. Claims 30-34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith as applied in paragraph 2 above. This rejection is respectfully traversed.

Again, Smith does not teach or suggest a tire having an outer surface displaying a colored non-repeating pattern on at least twenty-five percent (25%) of the outer surface according to the claimed combination. Thus, Smith does not teach or suggest the claimed invention.

Examiner states that "one of ordinary skill in the art would have found it obvious to form the tire rubber composition with a color that matches that associated with the wheel, vehicle

and/or additional tire components at desired period. In particular, the selection of the color of the tire rubber is dependent on the desired aesthetic characteristic. For example, one of ordinary skill in the art would have found it obvious to select a red rubber composition if the vehicle is red if such an aesthetic characteristic is desired."

The Examiner has not provided a prima facie case of obviousness under 35 U.S.C. § 103. Specifically, none of the prior art references cited by the Examiner teach or suggest the substantial coloration of a tire and color coordinating it with other parts, components and/or portions of a vehicle. The Examiner has not provided any support based on the cited prior art for his or her rationale for obviousness. Again, the prior art cited by the Examiner colorize tires for the purposes of indicating wear, damage and/or speed. The prior art references totally failed to recognize the concept of substantial colorization of tires and color coordinating parts, components and/or other portions of the vehicle, let alone doing so with the tire according to the claimed combination including an outer surface displaying a non-repeating colored pattern on at least twenty-five (25%) of the outer surface of the tire.

6. Claims 43-44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith as applied in paragraph 2 above and further in view of McDonald (US 4,317,479). This rejection is respectfully traversed.

The Examiner cites McDonald as disclosing a tire construction, which describes the use of both temperature sensitive and pressure sensitive coloring materials. Like Smith, McDonald fails to disclose a tire displaying a colored non-repeating pattern on at least twenty-five percent

(25%) of the outer surface. Thus, Smith and McDonald alone or in combination do not teach or suggest the claimed invention.

7. Claims 12-14, and 17-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Peterson as applied to paragraph 3 above and further in view of Firomeno.

Again, both Peterson and Firomeno both fail to disclose a tire displaying a colored non-repeating pattern on at least twenty-five percent (25%) of the outer surface. Thus, Peterson and Firomeno alone or in combination do not teach or suggest the claimed invention.

8. Claims 10-19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Creasey as applied in paragraph 4 above and further in view of Firomeno. This rejection is respectfully traversed.

Again Creasey and Firomeno both fail to disclose a tire displaying a colored non-repeating pattern on at least twenty-five percent (25%) of the outer surface. Thus, Creasey and Firomeno alone or in combination do not teach or suggest the claimed invention.

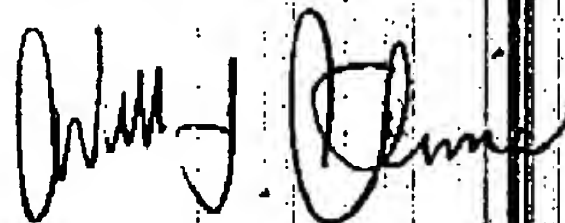
In view of the above amendment and remarks, it is believed that the claims are in condition for allowance and allowance is respectfully requested.

It is not believed that extensions of time are required beyond those that my otherwise be provided for in accompanying documents. However, in the event that additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are necessary and hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefore are hereby authorized to be charged to our Deposit Account No. 11-1243.

The Commissioner is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 11-1243.

Respectfully submitted,

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